

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TOMMIE E. PHILLIPS, SR.,

Plaintiff(s),

v.

CITY OF RICHMOND, et al.,

Defendant(s).

No. C 04-0285 PJH

FINAL PRETRIAL ORDER

Pursuant to Rule 16(e) of the Federal Rules of Civil Procedure, this final pretrial order is hereby entered and shall control the course of the trial unless modified by a subsequent order. The pretrial statements of the parties are incorporated herein except as modified by the court's ruling on the pretrial motions and objections.

I. MOTIONS IN LIMINE

Defendants' motion in limine to exclude evidence of lost opportunity based on plaintiff's failure to obtain the position of Chief of Police is GRANTED to the extent that plaintiff may not introduce any such evidence in support of his claim for economic damages, but DENIED to the extent that plaintiff may introduce evidence of his qualifications insofar as they have a bearing on disputed issues of liability.

II. EXHIBITS

The parties stipulate to the authenticity of all exhibits and shall meet and confer and try to arrive at a stipulation as to the admissibility of these exhibits as well. Any stipulations shall be filed **no later than one week before commencement of trial.**

1 III. VOIR DIRE

2 Eight jurors will be seated and each side will be permitted 20 minutes followup voir dire
3 after the court questions the entire panel. The parties may make appropriate inquiry about
4 race and gender bias or may submit additional voir dire for the court on this subject **no later**
5 **than one week before commencement of trial.**

6 IV. JURY INSTRUCTIONS

7 The parties shall meet and confer about instructions and shall re-submit a joint set of
8 case specific instructions, with each instruction appearing on a separate sheet of paper. The
9 parties may also submit no more than 6 each disputed instructions **no later than one week**
10 **before the commencement of trial.**

11 V. VERDICT FORMS

12 The parties shall meet and confer and prepare a joint form of verdict. If the parties are
13 unable to reach agreement on the form of verdict, the court will give a general verdict. The
14 form of verdict shall be filed **no later than one week before the commencement of trial.**

15 VI. TRIAL SCHEDULE AND TIME LIMITS

16 The trial will be held 4 days a week, excluding Wednesday, from 8:30 a.m. to 1:30 p.m.
17 with two fifteen minute breaks. Each side will be afforded twelve hours for direct and cross-
18 examination, but excluding jury selection, deliberations, opening statements and closing
19 arguments.

20 VII. MISCELLANEOUS

- 21 a. All "Doe" defendants are DISMISSED.
- 22 b. Pursuant to stipulation of the parties, plaintiff's twelfth and thirteen causes of
23 action for race discrimination are DISMISSED.
- 24 c. Plaintiff's ninth and eleventh causes of action for violation of the California
25 Constitution are DISMISSED as it is not self executing. However, it may provide
26 a basis for plaintiff's claim for wrongful termination in violation of public policy.
- 27 d. Plaintiff's additional pretrial documents that were untimely delivered, not filed,
28 one hour before the pretrial conference are STRICKEN.

VIII. TRIAL DATE

1 As indicated at the hearing, due to the court's unavailability, the July 18, 2005 trial date
2 is VACATED. The matter will trail several other previously scheduled trials in
3 September and October and the court will advise counsel as soon as a date becomes
4 available. The parties shall advise counsel if their clients would consent to proceed for trial
5 before a magistrate judge who would likely have more flexibility in scheduling.

6 IT IS SO ORDERED.

7 Dated: June 10, 2005



PHYLLIS J. HAMILTON
United States District Judge